

DEPARTMENT OF STATE REVENUE**LETTER OF FINDINGS NUMBER: 02-0254P****Gross Income Tax****For the Fiscal Year ended February 28, 2001**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)**I. Tax Administration – Penalty**

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer filed its return late and was assessed a penalty. Taxpayer's tax balance due was \$280,392.84 that it remitted after the due date. Payment was made on November 15, 2001. An extension to file is not an extension for payment and the taxpayer was assessed a late payment penalty.

Taxpayer filed a penalty protest letter dated April 18, 2002 stating it filed the Indiana Income Tax return timely with the automatic federal extension until November 15, 2001. Taxpayer states it paid the estimated taxes in full and in a timely manner.

I. Tax Administration – Penalty**DISCUSSION**

Taxpayer protests the penalty assessed and states that it timely filed and paid one hundred percent of the prior year's tax liability in a timely manner.

IC 6-8.1-6-1 (a) states that "if a person responsible for filing a tax return is unable to file the return by the appropriate due date, he may petition the department, before that due date, for a filing extension. The person must include with the petition a payment of at least ninety percent (90%) of the tax that is reasonably expected to be due on the due date. When the department receives the petition and the payment, the department shall grant the person a sixty (60-day) extension.

IC 6-8.1-6-1 (c) states that “the person must pay at least ninety percent (90%) of the Indiana income tax that is reasonably expected to be due on the original due date by that due date, or he may be subject to the penalties imposed for failure to pay the tax.”

IC 6-8.1-10-2.1 (a) provides for a penalty if a person “fails to pay the full amount of tax shown on the person’s return on or before the due date for the return or payment”

Taxpayer paid \$280,392.84 after the due date. Taxpayer states that it paid one hundred percent of the prior year’s tax liability in a timely manner. This is true under IC 6-3-3-3.1 (e) and the Department did not assess a penalty for the underpayment of estimated taxes. The Department assessed a late payment of taxes.

Taxpayer failed to remit ninety percent of its tax due by the original due date of the return, i.e. June 15, 2002 and has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer’s protest is denied.